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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/704,445	08/26/1996	BEN CHEN	202962001301	9201

1095 7590 02/03/2003

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EXAMINER

SHUKLA, RAM R

ART UNIT	PAPER NUMBER
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1632

DATE MAILED: 02/03/2003

2X0

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

08/704,445

Applicant(s)

CHEN ET AL.

Examiner

Ram R. Shukla

Art Unit

1632

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 November 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

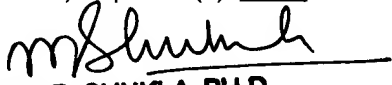
Claim(s) allowed: None.

Claim(s) objected to: None.

Claim(s) rejected: 1-3,5,8-14,17-19 and 21-40.

Claim(s) withdrawn from consideration: None.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet


RAM R. SHUKLA, PH.D.
PATENT EXAMINER

Ram R. Shukla, Ph.D.
Primary Examiner
Art Unit: 1632

Continuation of 2. NOTE: Applicants cancelled claims 1-3, 5, 8-14, 17-19 and 21-40 and proposed new claims 41-59. Applicants have stated that the newly proposed claims encompass subject matter indicated as allowed by the previous Examiner in the office action of 5-12-1999. However, the newly presented claims do not represent the subject matter indicated as enabled in the above said office action. For example, claim 41 recites a method wherein the mammal substantially lacks functional endogenous B- and T- cells, however, the indicated office action stated that the mammal lacks functional endogenous B- and T-cells. Additionally, the enablement rejection had clearly indicated that applicants experiments in mice which lack all functional T- and B- cells is not correlative to treating mammals with functional T- and B- cells. Newly presented claims 44 and 45 encompass treating a mammal with any immunodeficiency virus infection and HIV infection. Claim 43 encompasses xenogeneic transplantation. Other newly presented claims also encompass treatment methods in humans and other animals with B- and T- cells. The invention of such newly presented claims is not enabled. Therefore, even though the newly presented claims have narrower scope compared to claims rejected in the office action of 8-27-02, they raise new issues that will require further consideration and new search. Claim 56 has the word "efficiency" twice in line 1.

Continuation of 10. Other: It is noted that due to a clerical error the office action of 8-27-02 was indicated as non-final in the office action summary, however, as indicated in the office action on page 2, the action was made final.



RAM R. SHUKLA, PH.D
PATENT EXAMINER